Supreme Court, U.S.
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In the Supreme Court of the United States

B. MICHAEL SCHNEIDER
& JANINE L. BALLY,

Petitioners,

v.

COUNTY OF WILL, ILLINOIS &
THE WILL CO. BOARD MEMBERS
IN THEIR OFFICIAL CAPACITY,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the District Court and Appellate Court must follow the precedent set by this Honorable Court?

2. This Court having held that a government defendant must appear represented by authorized legal counsel set out in the applicable State Statutes.

3. This Court having held that a Court without in personum jurisdiction over a government defendant in a legally cognizable form may not proceed to adjudicate the issues presented in the complaint.

4. This Court having held that a collateral attack by a plaintiff seeking to have a judgment entered in favor of the defendant declared void is proper procedure.

5. Whether the relief under the ADA forecloses other forms of relief available under 42 U.S.C. § 1983 to pendent State law claims.

6. Whether 42 U.S.C. § 1983 relief is available from Federal Courts to require local government to conduct pre-deprivation hearings on a timely filed Notice of Appeal in accordance with procedures mandated by State Statutes when property rights are at issue.

7. Whether pendent state law claims for deprivation of the lawful use and maintenance of property should be heard, and injunctive relief be declared by a U.S. District Court upon local governments when the government is invalidly using its zoning police powers to deprive a person from the lawful use of the property without the pre-deprivation hearing required by state law when the local courts have refused to grant relief.

PARTIES TO THE PROCEEDING

Petitioners are B. Michael Schneider, and Janine L. Bally, resident citizens of the State of Illinois.

Respondents are the County of Will, State of Illinois, and Will County Board Members, Richard Brandolino, Richard Budde, William Bruin, W. Lee Deutsche, Mary Ann Gearhart, James Moustis, Glenn Warning, Ann Dralle, Susan Riley, Marianne Kozlik, Terri Wintermute, James Blackburn, Karen Callanan, John Gerl, James Gale, Kerry Sheridan, Stephen Wilhelmi, Suzi Wiberg, Henry Travis and Joseph Mikan in their Official Capacities as Members of the Will Co. Board.

RULE 29.6 STATEMENT

Petitioners are U.S. citizens residing in the Village of New Lenox, Will County, State of Illinois, which is located in the U.S. District Court Northern District's Eastern Division.

TABLE OF CONTENTS

Questions Presented i

Parties to the Proceeding and Rule 29.6 Statement ii

Table of Contents iii

Table of Authorities iv

Opinions Below 1

Jurisdiction 1

Relevant Statutory Provisions 1

Statement of the Case 4

Reasons Why the Writ Should be Granted 9

I. Conflict with Decisions by the United States Supreme Court by the District Court related to procedures employed by the Court in establishing in personum jurisdiction over a government defendant in a legally cognizable form 10

II. The District Court Should Not be Allowed to Abdicate Its Statutory Duties to Exercise Its Jurisdictional Authority over Claims Not Subject to Ripeness 18

III. Article III Jurisdiction is Clearly Shown by the Facts in this Case 27

Conclusion 30

Appendix

Appendix A - 2/23/05 – United States Court of Appeals for the Seventh Circuit Order Denying Rehearing En Banc 1a

Appendix B – 1/21/05 – United States Court of Appeals for the Seventh Circuit Affirming the District Court's decision of March 14, 2002 denying Petitioner's Motion to Disqualify the Unauathorized Representation of the County of Will by a private law firm 3a

Appendix C – 3/14/02 – United States District Court for the Northern Division of Illinois' Eastern Division denying the County's Motion to Dismisss Pursuant to Rule 12 b (6) the ADA claim for relief while granting dismissal of all other claims 7a

Appendix D – 3/14/02 – United States District Court for the Northern Division of Illinois' Eastern Division transcript of proceedings wherein the District Court states its reasons for denying the Petitioners' Motion to Disqualify the private law firm representing the County of Will 27a

Appendix E – Architectural Drawing depicting the (2) ground floor guestrooms For the proposed B&B that is fully wheelchair accessible under ADA Guidelines 33a

Appendix F – 1/25/02 – Letter from the law firm of Kiesler & Berman Confirming that no Court had appointed them to defend the County of Will In compliance with State of Illinois Statute, 55 ILCS 5/3-9008 . . . . . 34a

Appendix G – 7/26/02 – Responding Letter from Deputy Will County Clerk, Claire Hubbell, to Plaintiffs' Freedom of Information Act request That explains that the Will County Board did not enact any ordinance or Resolution authorizing representation by Kiesler & Berman in years 2001 Or 2002 . . . . . 36a

Appendix H – 7/26/02 – Exhibit attached to Response Letter (App. G) above Indicating that David Kiesler took an Oath as a Special Assistant State's Attorney that pre-dated Petitioner's filing of the underlying action in The U.S. District Court 38a

Appendix I – Edited Text of Illinois State Statutes applicable to the Petition For Writ of Certiorari that edits that language that is inapplicable to understanding the State Law claims 39a

Appendix J – Applicable County of Will Zoning Ordinances, State Statutes Applicable to Petitioners Claims of Deprivation of Use and Maintenance of their property without due process of law dating from August of 1999, and Illinois Constitution 43a

TABLE OF AUTHORITIES

Baumgardner v. Cook,
108 F. Supp. 2d 1041 25

Bell v. Hood,
327 U.S. 678, 66 S. Ct. 773, 90 L.Ed. 939 8

Capron v. Van Noorden, 6 U.S. 126 14

Chisholm's Executors v. The State of Georgia 12

City of Chicago v. International College of Podiatric Surgeons, 522 U.S. 156, 118 S. Ct. 523 . 18

Cleburne v. Cleburne Living Centers,
473 U.S. 432 6

Commonwealth Edison v. Will County Collector,
119 Ill. 2d, 25 Ill. Dec. 482, Ill. S. Ct. 20

Deery v. Cray,
5 Wall. 795, 807, 18 L. Ed. 653 27

Employers Reinsurance Corp. v. Bryant,
299 U.S. 374 14

Ephraim Simon v. Southern Railway Company,
236 U.S. 115, 35 S. Ct. 255 14

Galpin v. Page, 85 U.S. 350, 356 29

Hill v. Mendenhall, 88 U.S. 453 14

Lynch v. Household Finance Corporation, et al,
405 U.S. 538, 92 S. Ct. 1113, 31 L. Ed. 2d 424 . . . 8

Lujan v. Defenders of Wildlife,
504 U.S. 555, 112 S. Ct. 2130, 119 L.Ed. 2d 351 . 28

McDaniel v. Traylor, 196 U.S. 415, 49 L.Ed. 533,
25 Sup. Ct. Rep. 369 12

New Orleans Public Service, Inc. v. Council of City of New Orleans, 491 U.S. 350, 109 S. Ct. 2506,
105 L.Ed. 2d 298 . . . . . 19, 21

People v. Thompson, 43 Ill. Dec. 600,
88 Ill. App. 3d 375, 410 NE. 2d 600 15

People v. Wilkenson, 221 Ill. Dec 1,
285 Ill. App. 3d 727, 674 N.E. 2d 794 . . . . . 5, 6, 10

Schmude v. Sheahan, 2004 WL 718501
Northern District of Ill., 2002 17

Schneider v. Will Co., 190 F. Supp. 1082,
Northern District of Ill. 2002 . . . . . 1, 5, 16

Steel Co. v. Citizens for a Better Environment,
523 U.S. 83, 118 S.Ct. 1003 . . . . . 16, 29

The State of New Jersey v. The People of the State of New York, 30 U.S. 284 . . . . . 6, 12, 13

U.X. Gunter, Jr., v. Atlantic Coast Line Railroad Co.,
200 U.S. 273, 26 S. Ct. 252 . . . . . 12, 16

Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City, 473 U.S. 172, 105 S. Ct. 3108 . . . . . 8, 18, 19, 24

Will v. Calvert Fire Ins. Co, 437 U.S. 655, 98 S. Ct. 2552, 57b L.Ed. 2d 504 29

Yick Wo v. Hopkins, 118 U.S. 356, 6 S. Ct. 1064 . . . . . 6, 7, 20

Federal Statutes

28 U.S.C. 1254 (1) 1
28 U.S.C. 1343 (3) 1, 5, 18, 23
28 U.S.C. 1652 . . . . . 1, 4, 5, 11, 18
28 U.S.C. 1654 . . . . . 1, 4, 11
42 U.S.C. 12112 9(b)(4) 2
42 U.S.C. 12182 . . . . . 2, 9
42 U.S.C. 12201 b . . . . . *passim*
42 U.S.C. 1983 . . . . . *passim*

U.S. Constitution

Article III 16, 27
Amendment XIV 6, 19, 21

Illinois' Statutes

50 ILCS 820 . . . . . *passim*
55 ILCS 5/3-9005 a (4) 2, 4, 5, 11, 14
55 ILCS 5/3-9008 . . . . . *passim*
55 ILCS 5/1 6003 . . . . . 2, 5, 11, 13, 29
55 ILCS 5/5 12001 . . . . . 3, 8
55 ILCS 5/5 12009.5 . . . . . 3, 7, 20, 26
55 ILCS 5/5 12011 . . . . . *passim*

55 ILCS 5/5 12012 . . . . . *passim*
55 ILCS 5/5 12017 . . . . . 3, 8
735 ILCS 5/3-101 . . . . . 8, 22

Illinois Constitution

Article II Section 1 . . . . . 2, 14, 15
Article VII Section 7 . . . . . 7, 20

Will County Ordinances

Bed & Breakfast Ordinance 8.21 . . . . . 3, 7
Home Occupations 8.22 4
Zoning Board of Appeals/Will Co. Planning &
Zoning Commission 14.4 22
Appeals 14.9 . . . . . 3, 22

Other Authority

Words and Phrases, Thomson West, 2004 Cumulative
Pocket Part, Volume 29A, p. 45 10

PETITION FOR WRIT OF CERTIORARI

Petitioners, B. Michael Schneider and Janine L. Bally, respectfully petition for a writ of certiorari to review a judgment of the U.S. District Court of the Northern District of Illinois and that of the U.S. Court of Appeals for the 7th Circuit affirming that order.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the 7th Circuit granting summary judgment is unpublished. The Order entering Summary Judgment for the County of Will by the United States District Court on Northern Illinois is unpublished. Petition for rehearing to the Appellate Court was denied without opinion. The United States District Court published an opinion in denying the County's Motion to Dismiss pursuant to Rule 12 b (6), Schneider v. County of Will, 190 F. Supp. 2d, 1082 (N.D. Ill. 2002).

JURISDICTION

The United States Court of Appeals issued an unpublished order on January 21, 2005, and an order denying rehearing on February 23, 2005.(App. at 1a, 3a.) This Court entered an order On May 19, 2005 extending the time to file a writ of certiorari up to and including July 23, 2005. The jurisdiction of this Court is invoked under 28 U.S.C. 1254 (1).

RELEVANT STATUTORY PROVISIONS

28 U.S.C. 1652 requires Federal Courts to observe the laws of the State of Illinois when applicable.

28 U.S.C. 1654 requires a party to appear in personam or by duly authorized legal counsel.

28 U.S.C. 1343 (3) authorizes original jurisdiction to the District Court for claims asserting deprivation of civil rights or constitutional rights.

42 U.S.C. 12112 9(b)(4) prohibits discrimination towards an individual because of a known association with the disabled.

42 U.S.C. 12182 prohibits discrimination towards entities because of a known association with the disabled.

42 U.S.C. 12201 b expressly states that the ADA statute shall not be construed to invalidate or limit rights, remedies or procedures of any State or Federal law that provided greater or equal protection for the rights of individuals with disabilities.

42 U.S.C. 1983 provides for relief to a litigant for the deprivation to one's rights, privileges or immunities by a person under any color of law pursuant to any State or Federal Constitution or law.

55 ILCS 5/3-9005 a (4) requires the duly elected State's Attorney in his official capacity to defend the County of Will when required to do so in court proceedings.

55 ILCS 5/3-9008 requires the appointment of a Special State's Attorney by the Court in which the proceedings are pending when the duly elected State's Attorney is unable to defend.

55 ILCS 5/1 6003 requires the Will County Board to take the necessary and proper measures to defend the County of Will with authorized legal counsel (the State's Attorney) Pursuant to 55 ILCS 5/3-9005 a (4) and for the State's Attorney to enter the appearance on behalf of the County of Will into the record of the court in a legally cognizable form.

Illinois Constitution Article II Section 1. Separation of powers No branch of government shall exercise powers properly belonging to another. The legislative, executive and judicial branches being separate.